AMENDMENTS TO THE DRAWINGS

The attached sheets of drawings include a request for illustrating reference numeral "320a" in Figure 8.

Attachment: Replacement sheets for Figures 1-9.

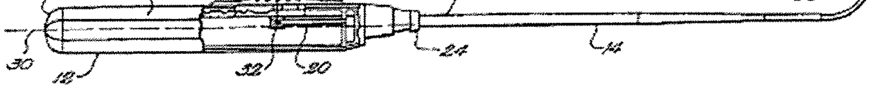
REMARKS

Claims 1-5, 11, 12, 15 and 16 are pending in this application. Claims 7 and 14 have been canceled and their limitations have been incorporated in amended independent claims 1 and 11. Claims 1 and 11 have been amended. No new matter has been introduced.

The specification has been amended to clearly indicate that FIG. 8 illustrates handle 310 and trigger 314 out of axial symmetry with longitudinal axis 320a. A proposed drawing amendment for FIG. 8 (with reference character "320a" added) is submitted for Examiner's approval. The specification and drawing amendment obviate the drawing objection. Formal drawings are being currently prepared by Applicants, and will be submitted in due course for Examiner's approval.

Claims 1-3 are rejected under 35 U.S.C. §102(e) as being anticipated by Reimels et al. (U.S. Patent No. 5,910,148) ("Reimels"). This rejection is respectfully traversed.

Reimels fails to anticipate the subject matter of claims 1-3. Reimels does not disclose or suggest "a single lever disposed pivotably on the handle and manipulable by a user's thumb . . . to toggle in an arc between two opposed positions, the two opposed positions being symmetric with respect to each other relative to a direction transverse to a longitudinal axis of the shaft," as claim 1 recites. As shown in Fig. 1 of Reimels (reproduced below), device 10 of Reimels is provided with an actuator 18 which is "mounted so as to slide in a direction substantially parallel to a longitudinal axis 30 of the housing 12" (col. 3, ll. 62-64). Thus, actuator 18 of Reimels is not designed to "toggle in an arc between two opposed positions . . . being symmetric with respect to each other relative to a direction transverse to a longitudinal axis of the shaft," as claim 1 recites.



For at least these reasons, Reimels fails to anticipate the subject matter of claims 1-3, and withdrawal of the rejection of these claims is respectfully solicited.

Claims 11 and 12 are rejected under 35 U.S.C. §102(e) as being anticipated by Witt et al. (U.S. Appl. Publication No. 2002/0165577) ("Witt"). This rejection is respectfully traversed.

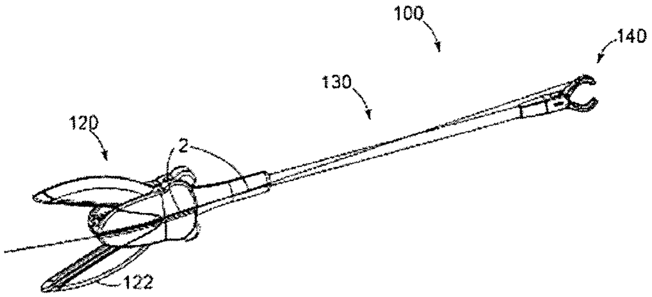
Witt fails to anticipate the subject matter of claims 11 and 12. Witt teaches a finger ring-actuated structure for an ultrasonic clamping device (which is finger-operated in a scissor-like mode), and not a structure with a "pliers-like grip" and with a stationary handle and a movable lever that are "adapted to be gripped by a user's palm without the need for finger or thumb rings," as claim 11 recites. None of the embodiments of Witt illustrate a handle with "a multi-member, pliers-like grip" to allow a user to manipulate the instrument without using fingers or thumb rings. Witt also fails to disclose or suggest "a stationary handle extending from the shaft" and "a movable lever disposed pivotably and manipulable by a user between two positions," as claim 11 recites. Both thumb/finger ring portions 16, 18 of Witt are moveable, and none of them is "a stationary handle," as in the claimed invention.

Witt also fails to disclose or suggest an "arthroscopic instrument" with "a shaft having a sharp distal tip for capturing and retrieving suture within a patient's body," as claim 11 recites. The instrument of Witt is an ultrasonic instrument having a coagulating clamp arm 12 (articulated to an ultrasonic blade 21), and not a suture retrieving instrument with a "sharp distal tip" to allow suture passing through body tissue, as in the claimed invention. For at least these reasons, Witt fails to anticipate the subject matter of claims 11 and 12, and withdrawal of the rejection of these claims is also respectfully requested.

Claim 5 is rejected under 35 U.S.C. §103(a) as being unpatentable over Reimels in view of Watschke et al. (U.S. Appl. Publication No. 2003/0023250) ("Watschke"). This rejection is respectfully traversed.

Reimels and Watschke, alone or in combination, do not disclose or suggest all limitations of claim 5 and of amended independent claim 1. As noted above, Reimels fails to anticipate the subject matter of claim 1. Watschke teaches a "surgical instrument" which is "capable of probing tissue, and preferably provides tactile feedback concerning the condition of the tissue" (abstract), and not an instrument with "a shaft having a sharp distal tip for capturing and retrieving suture within a patient's body," or with "an articulating mechanism disposed on the shaft and in communication with the sharp distal tip," as claim 1 recites. Distal portion 140 of Watschke is not a "a sharp distal tip for capturing and retrieving suture within a patient's body," as in the claimed invention.

Watschke also does not disclose or suggest "a single lever disposed pivotably on the handle and manipulable by a user's thumb . . . to toggle in an arc between two opposed positions . . . symmetric with respect to each other relative to a direction transverse to a longitudinal axis of the shaft," as claim 1 recites. Figure 1 of Watschke (reproduced below) illustrates two levers 120, 122 of instrument 10 capable of being "squeezed together" (¶[0088]).



However, neither of the two levers 120, 122 of Watschke is provided "pivotably on the handle and manipulable by a user's thumb . . . to toggle in an arc between two opposed positions," much less "pivotably on the handle and manipulable by a user's thumb . . . to toggle in an arc between two opposed positions . . . symmetric with respect to each other relative to a direction transverse to a longitudinal axis of the shaft," as in the claimed invention. For at least these reasons, the subject matter of claim 5 would not have been obvious over Reimels and Watschke, and withdrawal of the rejection of this claim is also solicited.

Claims 14-16 are rejected 35 U.S.C. §103(a) as being unpatentable over Witt in view of Watschke. This rejection is respectfully traversed.

As noted above, Witt fails to disclose or suggest all limitations of claim 11. Watschke fails to supplement the deficiencies of Witt. Watschke teaches a "surgical instrument" which is "capable of probing tissue, and preferably provides tactile feedback concerning the condition of the tissue" (abstract), and not an instrument with "a sharp distal end" or with "a stationary handle," much less with "a stationary handle" and "a movable lever disposed pivotably and manipulable by a user between two positions" and "substantially symmetric relative to a longitudinal axis of the instrument when the stationary handle and the movable lever are in a closed position, and . . . asymmetrical with respect to the longitudinal axis of the instrument when the stationary handle and the movable lever are in an open position," as claim 11 recites. Figure 1 of Watschke illustrates levers 120, 122 of instrument 10 capable of being "squeezed together" (see also ¶[0088]). Thus, Watschke does not disclose a "stationary handle" or a stationary handle and a movable lever disposed in the configurations recited in claim 11.

Applicants also submit that a person of ordinary skill in the art would not have been motivated to combine the teachings of Witt with those of Watschke, to arrive at the claimed invention. The crux of Witt is an ultrasonic clamping device which has a fixed or removable blade tip and clamp assembly for ultrasonic treatments (to provide a variety of essentially exchangeable tips, while reducing operationally engendered vibrations and stresses at the point of the coupling to the clamp arm). In contrast, the crux of Watschke is a surgical suture passer having first and second jaws that are "sized and shaped to probe tissue without substantially damaging or traumatizing the probed tissue." (Abstract). Watschke also teaches "a jaw manipulator capable of moving the jaws" and "a suture manipulation member for movement relative to the body portion between first and second positions in order to pass the suture and dart assembly from the first jaw to the second jaw" (¶[0013]). Accordingly, a person of ordinary skill in the art would not have been motivated to combine the ultrasonic clamping device of Witt with the suture manipulator and dart assembly of Watschke.

A person of ordinary skill in the art would also not have been motivated to combine the design of Witt that has a removable blade tip and clamp assembly for ultrasonic treatments (to provide a variety of essentially exchangeable tips) with the design of Watschke that has a non-removable distal portion 140. For at least these reasons, the subject matter of claims 14-16 would not have been obvious over Witt and Watschke, whether considered alone or in combination. Withdrawal of the rejection of these claims is also respectfully requested.

Allowance of all pending claims is solicited.

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Respectfully submitted,
By
Stephen A. Soffen
Registration No.: 31,063
Gabriela I. Coman
Registration No.: 50,515
DICKSTEIN SHAPIRO LLP
1825 Eye Street, NW
Washington, DC 20006-5403
(202) 420-2200
Attorneys for Applicants

Attachment: replacement drawings for FIGS. 1-9.